



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

## **Probate Status Hearing Re: Visitation**

# 3

<b>DOD: 7-11-01</b>		<b>DANIEL J. GUTERREZ</b> , Father, was appointed Administrator with Full IAEA without bond and Letters issued on <b>12-4-01</b> .	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from 092013</b>		Petitioner originally estimated the estate to contain approx. \$500,000.00 personal property (nature not specified), and stated the only relatives/heirs at law are the decedent's parents, Administrator Daniel J. Guterrez and Janice S. Guterrez, both of Coalinga, CA.	<u>Continued from 9-20-13.</u> <u>Minute Order 9-20-13:</u> No appearances. Matter continued to 10/24/13. James Rigali and Daniel Guterrez are ordered to be personally present on 10/24/13 if the petition has not been filed. James Rigali and Daniel Guterrez are authorized to appear via CourtCall. The Court will want to know at the next hearing how the creditors' claims were disposed of. Continued to: 10/24/13 at 09:00am in Dept 303. A copy of the minute order was mailed to James Rigali and Daniel Gutierrez on 9-20-13.
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>		The following Creditor's Claims have been filed:	1. Need petition to close estate. Probate Code §§ 12200, 11000, etc.
<b>Inventory</b>			
<b>PTC</b>		<ul style="list-style-type: none"> <li>\$7,767.00 by Claimant Discover Financial Services, Inc.</li> <li>\$348.38 by Claimant American Express</li> <li>\$7,159.68 by Claimant Citibank (South Dakota) NA</li> </ul>	
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>		On 11-19-03, the Administrator filed Petition for Authorization to Dismiss Survivor Action, which stated this probate was opened out of an abundance of caution because counsel for decedent filed a survivor action in Madera Superior Court on behalf of the decedent's estate. It was subsequently determined that the wrongful death claim on behalf of the estate should be dismissed, as the estate suffered no damages pursuant to CCP §377.34 (no final medical bills, lost wages, or other compensable damages). The Administrator requested an order from this Probate Court approving dismissal of the estate's claims.	
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>		That petition was denied on 1-29-04, and the attorney was directed to provide points and authority.	
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>		On 7-25-13, the Court set this status hearing for failure to file accounting or petition for final distribution.	
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			

Reviewed by: skc

Reviewed on: 10-22-13

Updates:

Recommendation:

File 10 - Guterrez

Atty Winter, Gary L  
Atty St. Louis, Allison

## Order to Show Cause Re: Failure to Appear (As to Allison St. Louis)

		<p><b>On 5-21-13</b>, pursuant to Amended Petition filed by <b>David and Arlene Liles</b>, Guardians Ad Litem for Raven Nicole Bailey, minor beneficiary, the Court appointed <b>H.F. RICK LEAS</b>, a licensed professional fiduciary, as Successor Trustee of the Amended Carol Bailey Living Trust with bond of \$500,000.00 on 5-21-13. Bond was filed on 5-31-13.</p> <p>Order 5-21-13 also requires <b>ALLISON ST. LOUIS</b>, as successor or representative of the prior trustee <b>DAVID J. ST. LOUIS</b>, to file an accounting with the Court, which accounting shall be prepared by Dritsas, Groom and McCormick, LLP, within four weeks of the order.</p> <p>The Court set status hearing for the filing of the accounting for 6-14-13, continued to 8-16-13, 9-5-13, and now 10-10-13. See Page 9A.</p> <p>On 9-5-13, the Court also set this Order to Show Cause regarding Allison St. Louis' failure to appear.</p> <p>The minute order and OSC were mailed to Allison St. Louis and Attorney Winter on 9-6-13.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Continued from 10-10-13</u></p>
<b>Cont. from 101013</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
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<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 10-22-13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 12B - Bailey</b></p>	

12B

<b>Age: 3</b>		<b>DESTINY GONZALES</b> , mother is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>CONTINUED FROM 04/25/13</b> <b>Minute Order from 04/25/13 states:</b> <b>Visitation is increased to alternating weeks beginning this week. Parties agree to participate in mediation today at 1:30 pm. The Court directs that mediation address the issues of visitation with regards to alternating weeks, holidays, and birthdays. Matter is continued to 10/24/13. Parties are ordered not to speak ill of one another around the child.</b>  <b>As of 10/22/13, nothing further has been filed and the following comments remain:</b> 1. Need Notice of Hearing.  2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition to Terminate Guardianship or Consent & Waiver of Notice or Declaration of Due Diligence for: - Stephen Solozano (father) - Severiano Solozano (paternal grandfather) - Ernest Gonzales (maternal grandfather) - Gloria Gonzales (maternal grandmother)
		<b>ELVIA SOLORZANO</b> paternal grandmother, was appointed Guardian of the Person on 06/06/12.	
		Father: <b>STEPHEN SOLORZANO</b>	
		Paternal grandfather: SEVERIANO SOLORZANO	
		Maternal grandfather: ERNEST GONZALES Maternal grandmother: GLORIA GONZALES	
<b>Cont. from 042513</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
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<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b>	x	
<input type="checkbox"/>	<b>Aff.Mail</b>	x	
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
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<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input checked="" type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input checked="" type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
<b>Petitioner states</b> that she believes her son belongs with her. She states that she has her older son with her full time and that he misses his little brother. Petitioner alleges that the guardian is always leaving Ayden with various people to watch him sometimes for days at a time. Petitioner alleges that the guardian doesn't answer her calls regularly and lies to her about why she doesn't answer. Further, Petitioner alleges that the guardian often gets frustrated with Ayden.  <b>Objection to Petition of Termination of Guardianship</b> filed 04/10/13 by Elvia Solozano, Guardian, states: she is concerned about Ayden's welfare if returned to his mother. The mother has stated that she works full time and goes to school. If this is the case, who will be caring for Ayden? Further, she states that she did not always answer the mother's phone calls because of the conflict that would occur when she called. Guardian states that her son does not live with her and she has no control over his behavior. Further, guardian states that she stays home and provides full-time care for Ayden. Ms. Solozano states that she wants Ayden to be well cared for and have a good education.  <b>Court Investigator Jennifer Daniel filed a report on 04/18/13.</b>			
<b>Reviewed by:</b> JF <b>Reviewed on:</b> 10/22/13 <b>Updates:</b> <b>Recommendation:</b> <b>File 14 – Solozano</b>			

## Petition for Order Directing Transfer of Property to Petitioner [Prob. C. 850(a)(2)(D)]

		<b>MARGOT BELLANDO</b> , Successor Trustee for Sunnyside Medical, a California fictitiously named business association registered and doing business in the City of Fresno, County of Fresno, State of California, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>SEE ADDITIONAL PAGES FOR UPDATED NEEDS/PROBLEMS/COMMENTS</u>  <u>Continued from 8-8-13, 9-12-13</u>  <b>Minute Order 9-12-13:</b> There is no trust by Ms. Bellando's own declaration. The Court directs the Petitioner to seek legal advice.  As of 10-22-13, nothing further has been filed.
Cont. from 080813, 091213		Sunnyside Medical is an interested person within the contemplated provisions of Probate Code §48 in certain personal property that the decedent held title to and possession of at her death.	
<input type="checkbox"/>	Aff.Sub.Wit.		<b>Reviewed by:</b> skc <b>Reviewed on:</b> 10-22-13 <b>Updates:</b> <b>Recommendation:</b> File 15 – Girazian
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	w	
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<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
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<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCC/JEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice	Decedent died while in possession of the property only as predecessor trustee to Petitioner. Before her death, the decedent had ordered the cashier's check drawn on funds, then and there beneficiary owned by Sunnyside Medical with the duty to transfer said funds and/or instrument representing said funds to Petitioner immediately upon Petitioner's succession of the decedent as trustee for Sunnyside Medical.	

**SEE ADDITIONAL PAGES**

Page 2

Petitioner prays for an order:

1. Directing John Chiang, Controller, State of California to transfer the funds represented by the cashier's checks to Petitioner, as the successor trustee of Sunnyside Medical, the beneficiary of the trust in which those funds were lawfully held by Jeannie Girazian and to execute any documents necessary in order to fully complete the transfer;
2. Directing John Chiang, Controller, State of California to immediately deliver possession of this property to Petitioner; and
3. For such other orders as the court deems proper.

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**Examiner's Note:** Prior Examiner Notes requested clarification regarding the relationship between Petitioner, the decedent, and the business, and regarding Petitioner's authority to bring this petition on behalf of the business, noting that it was unclear whether there was a trust instrument or agreement, or how Petitioner was associated with the business or trust, if any. It appeared Petitioner was using the term "trustee" in the figurative sense, rather than as a legal capacity in relation to a trust instrument.

After discussing these questions with Examiner after the last hearing, Petitioner filed two (2) separate declarations on 8-13-13 as follows:

**The 1<sup>st</sup> Declaration states:** Sunnyside Medical is a registered fictitious business name for a business created and existing to administer and manage revenues generated by the medical practice of **David J. Edwards, M.D.**, who, as settlor of those revenues, directed that those revenues be administered by Sunnyside Medical for the operation of his medical practice. Decedent Jeannee Girazian was Petitioner's predecessor as trustee for the funds representing the revenue being administered by Sunnyside Medical. As such, in keeping with the standing direction of **Settlor David J. Edwards, MD**, Petitioner is informed and believes that Jeannee Girazian received revenue generated from Dr. Edwards' medical practice in trust and deposited same forthwith into an account with Citibank or Bank of American, which account was denominated as the Sunnyside Medical business account and during her service as trustee, identified Jeannee Girazian as the exclusive person authorized to sign for withdrawals from that account. After comprehensive and diligent good faith review, it is clear to Petitioner that no funds have ever been deposited in the Sunnyside Medical account from which these negotiable instruments have been drawn that are attributable to any source other than the medical practice of Dr. Edwards. Petitioner is also completely certain that there is no evidence whatsoever of funds in the account that may have been commingled by Jeannee Girazian with funds belonging to Sunnyside Medical entrusted to her.

**SEE ADDITIONAL PAGES**

## Page 3

Petitioner states Ms. Girazian exclusively administered the financial affairs of Sunnyside Medical from the revenues deposited in the account until mental disability secondary to senile dementia resulted in her incapacity to administer those financial affairs. **Petitioner has subsequently been duly substituted as trustee of those funds by the settlor David J. Edwards, MD, and is now the person authorized to sign on the account.**

In the initial course of Petitioner's service as substitute trustee of the Sunnyside Medical accounts, Petitioner personally reviewed records and notes of Jeannee Girazian and others relating to the Sunnyside Medical accounts, and learned that Ms. Girazian had become concerned that the Sunnyside Medical bank account might be susceptible to levy by creditors, although Petitioner was not able to establish any comprehensible reason for her concern in this regard. It appeared to Petitioner that Sunnyside Medical was current or close to current with all creditors, and she could not see why there would be any credible threat of levy. Petitioner assumed that her concerns may have been born of the onset of her mental disability and concluded that she could prudently assume that there was no basis in reality for Ms. Girazian's concerns.

Petitioner states it was only well after Ms. Girazian's death, in the course of closing the medical practice, that Petitioner came across certain negotiable instruments concealed among Sunnyside Medical papers and **payable to Jeannee Girazian**. A review disclosed that the funds used to purchase those instruments were drawn from the Sunnyside Medical account at Citibank or Bank of America. **These instruments had obviously never been negotiated, but instead had evidently been acquired and intentionally concealed by Jeannee Girazian during the time she was administering Sunnyside Medical as trustee and had never been discovered by Petitioner or anyone else until Petitioner was engaged in the final closing of the medical practice.**

Upon close examination of all Sunnyside Medical's accounts, and with specific reference to the withdrawals that were obviously related to the negotiable instruments Petitioner discovered, Petitioner could not discern any reason for those funds to have been withdrawn by Jeannee Girazian and converted to negotiable instruments, nor any reason for her to physically conceal those instruments among Sunnyside Medical's records. Petitioner was also unable to discover a reason she never attempted to negotiate the instruments or further account for the funds they represented.

Petitioner states it was only after considerable reflection that she recalled Ms. Girazian's concern about the potential for levies on the Sunnyside Medical account. At that point, Petitioner presented her quandary to Dr. Edwards personally. She explained the circumstances and inquired as to whether he knew or might be able to discern the purpose of Ms. Girazian drawing funds from the account, converting them to negotiable instruments, and then concealing them.

**SEE ADDITIONAL PAGES**



## Page 4

In response to her inquiry, and after reflection of his own, Petitioner states Dr. Edwards explained that over the years of her association with Sunnyside Medical as administrator of its affairs and as trustee of revenue derived from his medical practice, there had been many conversations between Dr. Edwards and Ms. Girazian where he had, from time to time, expounded upon some of his own opinions about what he perceived to be a dramatic rise in frivolous medical malpractice suits in California. Among other things, he expressed his opinion to Ms. Girazian that a "doctor's fat bank account" was a ripe target for a malpractice attorney and that the size of the account was often the determining factor in whether a physician would be subjected to a suit for malpractice. Petitioner states Dr. Edwards also expressed his opinion to Ms. Girazian that he considered having medical malpractice insurance itself an invitation to frivolous litigation and that the only difference between having such insurance and not having insurance was that in the former case, the insurer would have to pay the attorney bills to defend, whereas in the latter, the doctor would pay. He concluded the opinion he expressed to Ms. Girazian by observing that, in the end, a doctor could not successfully avoid medical malpractice suit by practicing prudent and competent medicine, but rather came down to having a physician's having neither medical malpractice insurance, nor a "fat bank account" to tempt contingency fee lawyers.

Petitioner states after providing her with this explanation, Dr. Edwards confessed that when he said these things, he was just "blowing off steam," and did not intend to be taken seriously. He then reflected, however, that the discovery of the instruments, indicates that she had, however, taken him seriously, and the fact that she had hidden them in the later years of her administration showed that she was becoming increasingly troubled by her perception that Dr. Edwards might be victimized by an expensive frivolous medical malpractice lawsuit. Evidently, knowing that he did not carry professional E&O insurance, Ms. Girazian devised this well-intentioned, albeit inadequately revealed, "plan" to keep the account from appearing "too fat" in an effort to avoid tempting attorneys.

**Petitioner states** Dr. Edwards' response to her inquiry is the only satisfactory explanation for the existence and purpose of the instruments consistent with the facts her inquiry has disclosed. Accordingly, based on that explanation, Petitioner attempted to negotiate the instruments back into the Sunnyside Medical account as successor trustee to Jeannee Girazian. However, she then learned that the instruments would require Ms. Girazian's endorsement because she had taken them in her own name, even though they came from Sunnyside Medical funds and she had no other entitlement to receive such funds beyond her trusteeship of the revenues entrusted to her for management through Sunnyside Medical.

Petitioner states despite careful examination of business records, Petitioner has not been able to discern any other satisfactory reason for the acquisition and concealment of those negotiable instruments by Ms. Girazian, and has been unable to establish evidence supporting Ms. Girazian's efforts with respect to such funds.

Accordingly, Petitioner concludes that the funds belong to Sunnyside Medical and that Jeannee Girazian held them at the time of her death in that capacity only and that her intention for the disposition of those funds was to use them in accordance with her duties as administrator of Sunnyside Medical.

**SEE ADDITIONAL PAGES**

## Page 5

**The 2<sup>nd</sup> Declaration states** this declaration will clarify the relationship between the medical business, a holding trust, and the Sunnyside Medical bank account of David J. Edwards, MD. The origin of the funds arose from medical activities of Dr. Edwards, and were immediately deposited into the Citibank account called "Sunnyside Medical" in which Petitioner was office administrator and trustee with sole fiduciary authority to sign accounts payable checks only, and to handle the financial affairs of Dr. Edwards. Petitioner became the successor trustee to the account after Jeanee Girazian left. The medical business is not the beneficiary of a trust and never has been. Sunnyside Medical is a standalone sole proprietorship.

The medical office at 360 So Clovis Avenue is closed. Dr. Edwards, now 83, has retired due to physical disabilities resulting from an automobile accident, and resides at the address on Indianapolis used for this petition. It is from this new location that Petitioner still manages the SSM account as fiduciary paying all necessary bills relating to the physical property.

Petitioner states the Sunnyside Medical account was a dba, and the property of the trust. The funds were held in trust by Jeanee Girazian, who had legal title and a contractual duty as a fiduciary. Petitioner became the trustee and took over her duties.

Petitioner states Sunnyside Medical is a standalone sole proprietorship and there are no other persons in the business organization other than Dr. Edwards and Petitioner. All entitled to notice were served, but none appeared to oppose the petition. The petition filed was performed with the assistance of an attorney, wherein certain words were sued and written in an ambiguous manner causing blurring of the three entities and confusion which needed to be corrected.

**SEE ADDITIONAL PAGES**

NEEDS/PROBLEMS/COMMENTS:

1. Examiner Notes previously noted, based on the content of the original petition, that the relationships between Petitioner, the business, and the decedent were unclear, and further that Petitioner's capacity with respect to the business or trust, if any, was unclear (i.e., using trust terms such as "trustee" when there is no trust agreement or document).

Petitioner explains in her subsequent declarations that she took over the administrative role for the business Sunnyside Medical, which is a sole proprietorship of David J. Edwards, MD., after the decedent, and that later, in the process of winding down the business, she discovered these expired negotiable instruments held in the decedent's name individually, although the funds are allegedly business funds.

Petitioner seeks a court order under Probate Code §850 et seq., that the funds be released to her "in trust for the benefit of Sunnyside Medical." However, although it appears that although Petitioner may be or may have been an employee of the business, there does not appear to be any documentation of authority to bring this petition on behalf of the business in this Court. Petitioner uses the terms "trustee" and "settlor" although there does not appear to be any legal basis for using these terms.

It does not appear that Petitioner has the legal capacity to bring this petition on behalf of the business or Dr. Edwards, and further does not have authority to bring this petition under Probate Code in the Probate Court.

Petitioner may wish to seek legal advice regarding recovery from Ms. Girazian's personal representative in the civil arena, or other remedy available after seeking appropriate legal advice.

Note: Probate Code §850(a)(3)(B) allows a trustee to bring a petition under this section when the trustee has a claim to real or personal property, title to or possession of which is held by another; however, that does not appear to be the case here, as Petitioner makes clear in her declarations that there is no trust.

2. If this petition goes forward in this Probate Court, the Court may require proof of service of Notice of Hearing with a copy of the Petition and supporting documentation at least 30 days prior to the hearing on Dr. Edwards pursuant to Probate Code §851.
3. If this petition goes forward in this Probate Court, the Court may require documentation regarding Petitioner's capacity as a representative or "trustee" of the business accounts, and documentation regarding the instruments themselves, such as copies.
4. If this petition goes forward in this Probate Court, the Court may require clarification of what communications have been received from the State Controller, and what, specifically, they are looking for in terms of documentation.
5. If this petition goes forward in this Probate Court, need verification of the decedent's name, as it is spelled various different ways in the petition and declarations (for purposes of Court order).